

The Sex Discrimination Act



and the Struggle for
Women's Rights

15p

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CONTRIBUTORS to this pamphlet include: Marie Stinson, Karen Margolis, Ann Foreman, Celia Pugh. If you would like a speaker to introduce the ideas in this pamphlet for your women's group, trade union branch, Labour Party or Working Women's Charter Campaign meeting, please write to: Dodie Weppler, 97 Caledonian Road, London N.1 (01-278-9526)

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What is the SDA?

In March 1975, when Home Secretary Roy Jenkins moved the second reading of the Sex Discrimination Bill in the House of Commons, he claimed that it was “probably the most comprehensive of its kind in the world”. Such fanfares even before the Bill became law effectively ensured its reputation as a Charter for Women’s Equality. The Press responded with a characteristic mixture of humour and ‘fair play’ sentiment, painting vivid pictures of male bastions crumbling. Yet some people were reluctant to join in the congratulation of the Labour Government for the steps it was proposing. The International Marxist Group consistently pointed out in the *Red Weekly* that although the legislation was undoubtedly a step forward in the struggle for women’s equal rights, the Labour Government had not *begun* to tackle the basic problems of women as workers both inside and outside the home. In this pamphlet we shall examine the Act in greater detail and attempt to draw out some of its implications and potential for the Women’s Movement.

After only a glance at the provisions of the SDA, one fact is immediately apparent. This Act is entirely rational from the point of view of most employers, banks, and providers of services. The legal provisions cover three fields: employment, education and provisions of goods and services. In these three areas, it is geared to women as participants in the economic structure, specifically either as workers or consumers. Further, it is geared to a particular type of woman. A good deal of resources go into the education and training of qualified women. In the context of the economy as a whole, it is clearly wasteful of these resources to deny educated people jobs simply because they are women. Similarly, if someone has the money to pay for a house or washing machine, why deny her a mortgage or hire purchase agreement simply because she is a woman? We can see from the nature of the Parliamentary debate on the Act that this kind of idea was uppermost in the minds of many of its supporters. Labour MP Renee Short, for example, expressed concern that “in the top echelons of industry women were conspicuous by their absence, and there was not one woman managing director among the top firms, and less than two per cent of the Institute of Directors were women”.

Speaking generally, then, the SDA is aimed at dealing with anomalies in the lives of middle class women, especially those in professional jobs. Of course, it is true that middle class women do experience oppression as women, and that they are often victims of discrimination. But any Sex Discrimination Act which was seriously intended to end this situation would have to consider the circumstances of the *majority* of women rather than those who aspired to be managing directors. Such an Act, for example, would have to ensure the stopping up of loopholes in the Equal Pay Act by guaranteeing equal pay to those who have not already got it. It would have provision for restructuring areas of employment so that women were not ghettoised in some sectors and denied admittance to others. It would have to ensure that women were able to take advantage of the improved mortgage and loan facilities by guaranteeing a minimum wage tied to increases in the rate of inflation. The Labour Government’s SDA does none of these things.

So far, we have only considered the terms of the Act, but we have already identified certain basic weaknesses. Of course, it could be argued that we cannot alter the position of women overnight. The White Paper, 'Equality for Women', on which the SDA is based, argued that it was a matter of changing attitudes, of people following the example set by government, employers, and trade unions. However, when we look at the range of women's problems which *could* be tackled by legislation, we can see that the Government has only dealt with the symptoms and not the causes. Any reference to the right of women to control their own fertility and sexuality is conspicuously absent. Yet how can we have equality of opportunity if we are forced to bear unwanted children? Or refused adequate pregnancy leave and maternity allowances? Or unable to find nursery facilities for our under-fives? It is remarkable, too, that an Act drawn up by a government which proclaims its readiness to fight discrimination should not cover government practices. The Civil Service, which is controlled by the government, discriminates daily against women in relation to pensions, family allowances, taxation, national insurance, social security, passports and so on. How can an Act which is supposed to bring women into the 1970s remain silent about the Victorian morality practised in the DHSS cohabitation rule? To such criticisms the Government has replied that these matters will be dealt with in separate legislation. But there are two problems with this. Firstly, the existence of several different laws dividing areas of discrimination up between them makes it very difficult for a woman to work out which legal procedures she must follow if she wishes to make a complaint. Secondly, our experience of the economic crisis shows that all sorts of well-intentioned proposals can end up in ministerial dustbins in the name of 'national interest'. It would be no surprise if the government announced (apologetically) that it did not have the money to implement the changes.

There is no sound reason for the omission of these provisions from the SDA. They stem from the refusal of the Government to recognise what the roots of women's oppression are, and to challenge the institutions that structure our oppression. The SDA does not recognise the importance of the family in women's lives—this is considered to be a 'private' issue, a matter of 'individual conscience'. Yet our role within the sexual division of labour in the family determines to a large extent our role in social life. Society will never consider women equal to men while we continue to take the major share of responsibility for the daily household tasks and childcare. But the SDA, by separating 'home' and 'work', reinforces the isolation of women who stay at home and does nothing to alleviate the double burden of women who work outside the home as well.

Our criticisms of the SDA have so far been based on one important assumption: that it is concerned with *equality*. This assumption is based both on the claims made for the Act and the fact that women are actually demanding equality. What the weaknesses of the Act show very forcibly, however, is that there is a world of difference between equality and *discrimination*. We can only talk about discrimination against women if *they are already in the same situation as men*. But in employment, educational opportunities, family commitments, income, and many other areas, women are not in the same position as men. An Act which tried to remedy these imbalances would be an Act promoting *equality*.

The crucial difference between such an Act and the SDA is that an equality Act would be positive. It would require certain basic provisions—abortion on demand on the NHS, freely obtainable contraception, state-financed nursery provision in every area, positive discrimination in training schemes and so on. The SDA simply says what may *not* be done in an otherwise equal situation: it plays no part in promoting this equality. Of course any positive revisions to the SDA will be taken by the Government only if the struggle by the working class on *all* these issues develops to the point where the Government is *forced* to act.

Why was the SDA passed?

In introducing the SDA we have already raised criticisms of its provisions and the thinking behind it. Examining the reasons why Parliament passed the Act will give a focus to these criticisms and help us to understand why certain provisions were included and others omitted.

The origins of the SDA lay in the struggle for Equal Pay. But the passing of the SDA cannot be explained simply in terms of the struggle of women workers and the general influence of the Women's Movement, although these played a crucial part. There was another mechanism at work: the political requirements of the government. The SDA reflects government attempts to deal with two problems, one immediate and one ever-present. The immediate problem was the need of British capitalism to integrate itself with the EEC. The Labour Party Manifesto had contained a commitment to equal pay since 1964. The TUC had given paper support to equal pay since it was set up. Until the early 1970s, these commitments had had no significant impact upon women's pay. But the Common Market was another matter. The Treaty of Rome (to which all member countries of the EEC subscribe) contains a clause—number 119—which demands that all member countries implement equal pay. The EEC had also previously had a time scale whereby equal pay would operate within it by 1964. This was not in fact achieved, but steps towards it had been taken in all member countries. If Britain joined the Common Market, it would have to bring its equal pay policy into line with the requirements of the Treaty of Rome.

Clause 119 can therefore be seen as the basis for the SDA. The Labour Government, however, went one step further. Clause 119 is based on the International Labour Organisation Convention 100, adopted in 1951. This demands that equal pay be given for work of *equal value*. (As we shall see below, the SDA does not in fact provide this.) However, the ILO eventually realised that equal pay was totally inadequate without equal opportunity. Convention 111, adopted in 1958, therefore demanded that women should obtain not only equal pay, but also equal educational and job opportunity.

The SDA as it stands is a development of the concept of equal pay to meet some of the demands of ILO Convention 111. Indeed, the SDA confines itself almost exclusively to issues covered by this Convention—women at work, and employment and educational opportunity.

The second problem facing the government was the ever-present one of the role of women in the economy. From the beginning of this century, government legislation has been passed to attempt to regulate women's position in the economy. Most importantly, the development of the Welfare State was a recognition that the increasing entry of women into paid employment meant that they could no longer perform all the tasks that had traditionally been carried out within the family. The creation of the Health Service and universal primary and secondary education instituted a division of labour between the State and family in the education and servicing of the working class. The family structure and the domestic labour of women within it has been retained, but for efficiency's sake this work has been more narrowly defined. The relative paring down of domestic labour enabled women to enter industry when and where they were needed. But because they remained domestic labourers as well as industrial workers, they went primarily into low skilled and low paid jobs. The employing class thus obtained a double benefit from women's labour. On the one hand, the unpaid labour of women in the home ensured the maintenance of the present and future generation of workers. On the other, huge profits could be made from the use of underpaid female labour.

Women's Position Since World War Two

The changes within the capitalist system, particularly since World War Two, have also altered the position of women. With the massive development of technology on a world scale. British capitalism has been forced to re-structure its industry in order to survive. But the automation of large areas of unskilled labour—areas where women workers predominated—would, if carried out, produce a crisis in women's employment. It was with this understanding that a lobby was formed, aimed at persuading the Government to produce policies and facilities that would direct a certain section of women into more skilled areas of the economy. Nancy Seear, who produced the first draft Sex Discrimination legislation, was particularly vocal within this lobby. It is no accident that she is a lecturer in Personnel Relations at the London School of Economics—and that the new legislation was to some extent seen as 'enlightened management'. The lobby consisted mainly of professional women, whose career ambitions were often frustrated by discrimination. The final legislation, with its emphasis on eliminating anomalies in provision of goods and services, such as mortgages, is very much a reflection of the concerns of this lobby. Besides, such clauses required no financial commitment on the part of the government—especially important in a period of

acute economic crisis. On the contrary, encouraging women to see themselves as consumers could provide a boost to the economy.

This deals with the main government requirements underlying the SDA. However, as we said earlier, the SDA was also a concession to the militancy of women both within the trade union movement and the autonomous women's movement. Since the first machinists strike in 1968 which marked the beginning of the Equal Pay campaign, women have become increasingly active in the struggle for equal rights. The growth of the women's movement, the activity of women in the trade unions, and the recent massive mobilisations in the National Abortion Campaign are all testimony to this. It has also proved to the Labour Government and the leadership of the trade union movement that women can organise—and mobilise the support of sections of the labour movement—in a way that is potentially outside the control of the usual government and TUC channels. So the SDA can also be seen as a response by the Labour Government to this potential danger.

But the Government, in its present role as the sustainer of British capitalism, has been forced to manoeuvre around the few concessions it has made. It tries to take back with one hand what it has given with another, in such a way that people still believe it is acting in their interest. Consequently, both the SDA and the Equal Pay Act were offered in the same package as the Social Contract and the £6 pay limit—policies that represent a direct attack on the working class. *This is a very effective method of dividing sections of the working class.* The position of women is seen to be 'improving' at the expense of pay increases. Arguments which run: "either nursery facilities or more hospital beds" make it increasingly difficult for women to advance their demands. On the other hand, when the crisis *does* hit women clearly—so, for example, they are often first on the redundancy lists—this is justified because they already have jobs in the home'. This also weakens the working class and because it is often accepted by both men and women workers, the Government is able to hide this attack—at the expense of women.



John Surrock (Report)

One half a million unemployed women workers don't sign up—and so the extent of the crisis is hidden.

There is, of course, no guarantee that the Government will succeed with this type of tactic. As the contradictions experienced by women become more acute, there is every chance that their militancy will increase. The rapid changes that have taken place since sex discrimination legislation was first drafted, have created more problems for the Government and employers. The restructuring of British industry will have to be far more thoroughgoing than previously envisaged. At the moment there are even problems with keeping the economy afloat. The project of redirecting female labour has been swallowed up by massive unemployment. A reduction in the female workforce is obviously in the interests of the employers. In this respect the SDA is, to say the least, untimely. On top of this, the Government is also faced with implementing its intention to cut public spending. Without the increased spending required for training schemes and facilities, even the limited terms of the SDA will remain a dead letter. On the other hand, the SDA has increased the expectations of women, many of whom already consider it too little, too late. Above all, it has legitimised the idea that women are oppressed and it is the responsibility of government to legislate against our oppression.

The Labour Government's policies in relation to women are in a state of crisis, reflecting that of the economy. It is a crisis that is not of our making. Our refusal to bear responsibility for it means fighting every attempt to dismantle the Welfare State, which shifts the burden onto women. It means fighting the attacks on our right to abortion. It means pressing ahead with our demands and mobilising support from the whole labour movement to win them. Fighting for implementation of the SDA provides us with a basis for the struggle for equal rights. Criticism of the weaknesses of the SDA raises the necessity to campaign for the demands of the Working Women's Charter, the National Abortion Campaign and the Women's Liberation Movement—all demands which have emerged from the experience of women in struggling for the basic preconditions for our liberation. We shall return to this in our conclusion.

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A Guide to the SDA

1. General principles of the SDA

The SDA protects men, women and married people. It demands that there should be no difference in the way that men/women, married/single people are treated in the *same* situation. No conditions may be imposed that is harder for a man than a woman, a married person than a single person, to fulfill (or vice versa).

2. Employment

This is one of the major sections of the SDA, especially since the full implementation of the Equal Pay Act is dependent on it. Effectively the EPA has been integrated into the SDA, with the same complaints procedures etc.

The main bulk of this section (leaving aside minutiae like special regulations for police, prisons and religious institutions) falls into 2 parts: a) access to employment, promotion, etc. and b. equal pay.

To take the question of equal pay first. The basic principle is that equal pay must be given when—

- i) a woman is employed in *like work*, with a man, in the *same* employment;
- ii) a woman is employed in *work rated as equivalent* with a man's in the *same* employment.

Also if the contract (personal or collective) does not actually contain such clauses, then after 1st January 1976 it is automatically held to do so. Any contract made after this date must *include* this provision.

But the SDA has the exception written into it: there can be a difference in the work contract (i.e. the terms of the employment including pay) when the employer can show that the "variation is due to a material difference (other than the difference of sex) between her case and his".

This last proviso acts as a large loophole for employers who are looking for ways to get round the equal pay provisions. However, when the other terms of the Act are looked at in detail it will be quite clear that there are already several means of avoiding giving equal pay which are completely legitimate.

Like *work with a man in the same employment*. One very obvious way round this is to segregate female and male workers, either by employing one sex only, or separating the jobs they normally do. Over the past 5 years whilst the principle of equal pay has supposed to have been put into effect there has been an increasing tendency for work to become separated, especially in manual jobs. The result of this is that there can be no claim for equal pay because the same job is not being done by men and women.

Work rated as equivalent with a man's in the same employment. The main question is: who assesses the jobs? The basis for assessment and grading are not laid down in the SDA, so there is nothing to stop an employer from rating physical strength, for example, higher than manual dexterity, thereby assuring higher pay for men than women. Nothing in the SDA can stop an employer from rating jobs normally done by women at the bottom end of the

pay scale. This points out the importance of fighting for a workers' veto over all job evaluation schemes. And since it is women who usually come off the worse in the schemes it shows the necessity for women's self organisation within the trade unions themselves.



Chris Davies (REPORT)
Demands for education and job opportunities for women go hand in hand with equal pay.

The original proposal on this from the ILO was that there should be equal pay for work of *equal value*, thus setting out more clearly what the basis for rating systems ought to be. This, however, has simply been ignored in the SDA, and no attempt has been made to lay down specific guidelines for 'equivalent' work.

It is argued that these objections do not now matter because everyone has an equal right of access to employment, including training, transfer etc. So women need not accept segregated work. However, when this section is examined, it is apparent that this is far from being the case.

The basic principle of the section on access to employment etc is that women have an equal right to: apply for jobs; be considered for them on their merits; have equal rights to promotion, transfer and training, and all other benefits connected with a job. There then follows a host of exceptions which have the effect of reducing the general principle to the level of a platitude.

i) retirement and death provisions are excluded from the Act

ii) domestic work in a private house, and work in a firm of less than 5 employees (both still a considerable proportion of women's employment) are excluded from the Act.

iii) also excluded are those jobs where sex is stated to be a "genuine occupational qualification". These are defined as follows:

—the nature of the job (e.g. where strength is required)

—where privacy for men is required

—where accommodation is necessary and only provided for one sex

—the nature of the establishment (prisons, hospitals etc for men only where it is 'reasonable' that jobs be held only by men)

—personal services promoting the welfare, education etc of people, best done by men (the Act does not say why, or give examples)

—legislated restriction on women's employment (e.g. mines)

—jobs abroad which women could not do because of the social conditions there.

iv) Should a vacancy arise the employer has the right to simply redistribute the work load amongst the existing male employees rather than advertise the job. Obviously these restrictions have the effect of reducing considerably the chance of equal access to employment. Furthermore, as is shown below, the SDA has no provisions for extending women's involvement in those sectors of the economy where they are under-represented.

Without equal opportunity, equal pay is not a reality.

What does this section on employment mean to most women? It cannot be argued that it gives equal pay. Not only are there legal means of evasion pointed to above, but the enforcement procedures are totally ineffective (see below, the section on enforcement). Besides this, where there is no equal opportunity to enter all kinds of employment, equal pay cannot be a reality. A brief look at the structure of women's employment shows how ineffective the SDA as it stands is on this issue of equal pay. Many women are professional or work in the public sector as teachers, clerks etc. Equal pay has been the rule in the public sector since the 50's, and is found in most professions. So these women are not affected by the equal pay sections of the SDA. Most other women work in factories, mills etc as manual workers; in domestic work; in service industries like shops; or in general secretarial/typing work. The means for avoiding equal pay for manual workers have been noted above; domestic work is completely excluded from the Act. Most of the other women work in jobs which are done predominantly by women. Women in service industries, like shop assistants, do not as a rule work with men, so there can be no comparison of their work or wages. Likewise typists/secretaries are almost exclusively women with the same result.

For these women the equal pay clauses of the SDA are not enough. Equal pay is either easily avoided, or there are no men to provide parity rates or job comparison. What is required here, besides an *effective* equal pay act for those where men and women do work together, is at least a basic minimum wage, for all workers, and properly established rates for the job done, which should not be dependent on the sex of the person performing it. Also equal opportunity to enter other jobs is essential.

Supporters of the SDA claim that this has been achieved—there is nothing to stop women applying for jobs. This is true—and where women are qualified to apply this is an advantage, since it prevents arbitrary exclusion. But generally speaking only career women will benefit here. These women have been trained, often in higher education, and already play a large part in many professions. Their main demand, in fact, is equal promotion rights. Like all women they will not find the SDA enforcement procedures make claims on this score easy to win; but their fight is simpler since it rests on relatively simple questions, which are easier to cope with than the much harder task of gaining admittance to a field of work in the first place. The real question remains: what does the SDA do to ensure that as many women as possible *can* apply for jobs in all fields of work?



Chris Davies (Report)

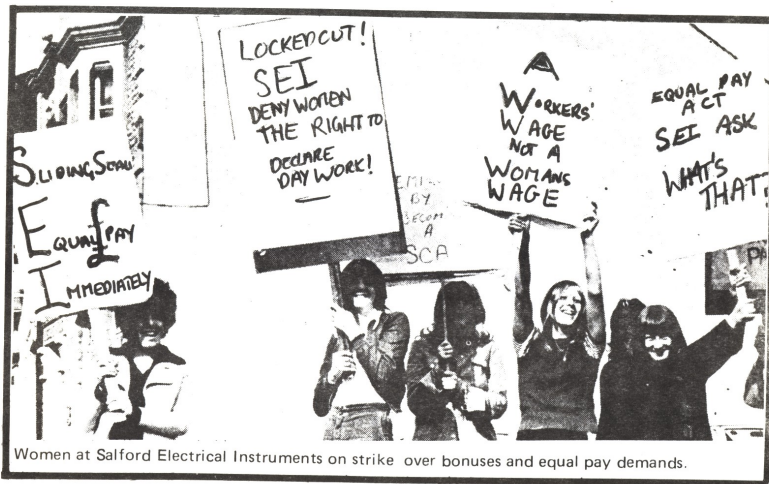
Although teachers get 'equal pay', women remain the lowest paid sector.

It is argued that the section in the SDA on 'positive discrimination' allows for this. The main points of this section are that training etc can be offered to one sex specifically if within the previous 12 months few of that sex were doing the stated job. Both the public and private sectors can utilise these exceptions. Also it is allowable to provide favourable access to training etc where "domestic or family responsibilities" have restricted previous full-time employment. This is supposed to provide opportunities for women to train for jobs that they have not done previously, and also to allow for women who have been at home with children to train for other work.

However, it must be examined closely. What this section does is allow *sections of industry* etc to increase training facilities *if they wish*. It is not

compulsory for them to do so. Under the SDA women do not have the automatic *right* to preferential schemes, they cannot demand them by law. It is left up to the employer, public or private, to decide when and if such schemes should be available—and this will depend solely on their labour requirements at any given time. It has nothing to do with providing women with the means towards any kind of job equality. As the table below shows (table 1) women are under represented in most industries, which the government is quite well aware of (the figures are government figures). Thus there is no excuse that can be offered for making 'positive discrimination' operable only at the discretion of the individual firm. It is plain that the right to training in those fields where women are grossly under-represented ought to be a right. It is equally plain that the government has no intention of conceding that right. Which makes it all the plainer that the SDA bears little relation to the notion of equality for women.

So what can be said of the employment section of the SDA? The provisions are geared towards the white collar/career jobs. Often these already have equal pay, but will benefit from the restriction placed on arbitrary refusal of promotion etc. They will not operate in most other areas: secretarial and typing work is done predominantly by women, domestic work is excluded, and many manual jobs have already been divided on sex lines to evade equal pay. The sop to women is the 'positive discrimination' provision, but whilst this remains optional and not compulsory it will not benefit women. It will merely allow employers to take certain steps if and when they see the need for increased female skilled labour. The SDA makes no attempt to give women already in the workforce a fairer share of job allocation. Neither does its educational provisions provide these in the long term

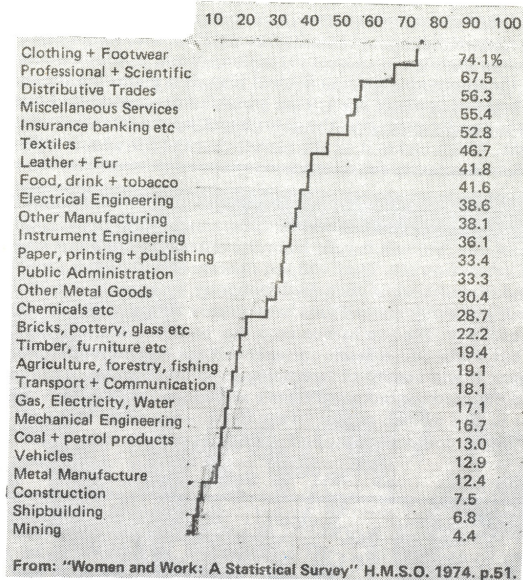


REPORT

Women at Salford Electrical Instruments on strike over bonuses and equal pay demands.

Table 1

Women as percentage of the total workforce in industry, 1971.



3. Education.

The basic principle here is that no discrimination against women may operate in the terms of admission, acceptance, or access to facilities, in any educational establishment, in either the public or private sector. As usual, however, there are significant exceptions. These are:

- existing single sex establishments
- access to boarding facilities if provided for one sex only
- physical training education

The main thing which is obvious from this is that co-education does not become mandatory. This is to say the least odd, in an Act which is supposed to end discrimination. One of the roots of discrimination is separation of the sexes into certain fields of activity and encouraging them to operate within these preconceived moulds. Sex segregation at school serves to confirm the idea of separateness and distinction between the sexes. It should have been declared unlawful in the SDA.

The other thing which we can look for in vain in the SDA is any attempt to alter at school level the patterns of job selection and curtailment of activity which women experience. Women's confinement to certain sectors of employment often begins at school. Most women remember being sent off to domestic science whilst boys went to woodwork without any choice in the matter, and often without the slightest notion that this might be an odd thing to do. There is also often a feeling, not always openly expressed, that women are 'better' at some things than others, and thus are discouraged from engaging in scientific, mechanical and technical subjects. In addition there is the still prevalent attitude which regards higher education or training for women as a waste of time. These kind of restrictions show themselves in the job patterns of women when they leave school.

The 2 tables below (tables 2 and 3) show the usual pattern of women's employment. For those without further education it is mainly clerical or manual. Of those who do take up apprenticeships (and under one fifth of apprenticeships were taken up by women in 1972), the two main divisions are professional and business training, and service industries, of which hairdressing is the most popular.

Given this, and the state of women's participation in industry at the present time, what kind of action does the SDA propose about this? In effect very little—it adopts a neutral stance. It is now unlawful to deny girls access to courses offered but it is by no means obligatory to point out to them that they are available. This does not only mean school courses, but further education courses and apprenticeships as well. The weight of discovering courses and demanding to participate in them is thrown back on the individual (or her family or friends). As the comments on the employment provisions show a neutral stance is not enough. If women are to participate *equally* then they must have the fullest educational opportunities, which take action to remedy the second place that women have always taken here. Simply to outlaw discrimination is not nearly enough.

Tables 2 & 3

1. Kinds of employment of 15 – 17 year olds. 1972		
Employment	% of Men entering	% of Women entering
Apprenticeship for skilled Job	38.7	7.9
Employment leading to professional qualification	1.3	1.7
Clerical	7.1	34.3
Other Employment with planned training	16.5	17.7
Other	36.4	38.3

2. Women aged 15 – 17 entering apprenticeships for skilled occupations 1972

Occupation	Women as % of Total Intake
All Manufacturing Industries	2.5
Distributive Industry	12.1
Insurance, banking, finance etc	14.9
Professional & Scientific	42.6
Hairdressing & Manicure	94.0
Miscellaneous Services	47.8
Other	1.2

Both from: "Women and Work: A Review" HMSO 1975 p5

4. Provision of Goods, Services, Facilities, Premises.

This is the third main area covered by the SDA. It is a straightforward section. Women are to have equal access to goods etc of equal equality, on the same terms as men. This includes all public places, accommodation, banking, insurance, credit etc. Access to premises is on the same lines, with some reservations found normally in housing legislation.

This section gives women access to things that they have been arbitrarily denied for a long time, especially tenancies, credit facilities, mortgages etc. Such a step is very welcome, and is a distinct advance of the pre 1976 situation where women were often denied access to all these facilities on the grounds of sex or marital status. However, whilst welcoming this as an advance, several things must be pointed out which assess these clauses in a rather more sober light.

A first, most important consideration relates to tenancies. It is good that the SDA acknowledges that women do not always live under the marital or parental roof, but it is nonetheless very deficient. The SDA is unable to prevent harassment, evictions and so forth, but these are faults that it shares with *all* housing legislation. A much more specific criticism is that its application is limited to adults. This is part of the point made earlier about the SDA being mainly directed at working women. For under the SDA there is no provision made for women *with children*. It is now illegal to refuse a tenancy on the grounds of sex, it is not illegal to refuse it on the grounds of children. This means that widowed, divorced, separated, battered or deserted women with children, and all single parents, are not allowed any redress under this Act if they are refused a tenancy because they have children. This is not equality for women!

There are points which must be raised in relation to the provision of other goods and services. Whilst it is good that women can have mortgages etc, who can afford them? Below is a table (table 4) of relative men and women's pay. It shows that women earn considerably less than men. This is not simply the result of unequal pay (some of the jobs obviously have equal pay), what it shows is that women are in the *lower paid jobs*, and thus their *average* earnings are far less than those of an *average* man.

What does this mean in relation to the SDA? It shows very clearly that these provisions were drafted with the well-paid professional women in mind. They were very vocal in their grievances about being denied equal access to facilities they could afford. The remedy not only cost nothing but stimulated consumer activity by women. But what about those women for whom buying a house or car is an impossible dream? They cannot benefit fully from these improvements unless they get equal pay, a proper rate for the job, and complete job opportunity. We have already seen that the SDA does not provide these.

The gain to women from this section is that it is now established that they *can* have access to all these goods and services. The struggle now is to get the *means* to benefit from them.

Table 4

Average Weekly Earnings of Men and Women, 1963 – 73				
YEAR	MANUAL		NON-MANUAL	
	Males £	Females £	Males £	Females £
1963	16.75	8.41	22.25	11.97
1964	18.11	8.95	23.53	12.60
1965	19.59	9.60	25.53	13.71
1966	20.30	10.07	26.69	14.25
1967	21.38	10.56	27.90	14.90
1968	23.00	11.30	29.77	15.76
1969	24.82	12.11	32.07	17.05
1970	28.05	13.99	36.12	19.59
1971	30.93	15.80	38.45	20.67
1972	35.82	18.30	42.90	23.03
1973	40.92	21.16	47.40	25.60

5. The Equal Opportunities Commission.

This body was set up to work towards the elimination of discrimination and to supervise the implementation of the SDA and Equal Pay. It has several definite functions.

- A. There are some cases that *only* the EOC can deal with. The main one is unlawful advertising—i.e. those that ask for a worker of one sex only, except where this is legally permitted. It is interesting to note that these can only be dealt with by the EOC since it makes the full application of the principle of non sex-specific advertising a dead letter. The EOC itself is hardly likely to read all local and national newspapers etc to check on their adverts, so it can only take those which are referred to it, and then the action that is taken is for it to decide. Ultimately this would probably be a non-discrimination-notice. (This notice, as its title suggests, is a notice to stop whatever discrimination is being committed).
- B. It can undertake research work around the question of the SDA, and it can distribute educational material if it complies any.
- C. It has to make an annual report on the working of the SDA to the Secretary of State, and submit proposals on how it can be improved.
- D. It can undertake investigations into areas of discrimination generally, or specifically, in relation to the conduct of firms or individuals. These investigations are of 2 kinds:
- a) An investigation required by the Secretary of State. The report of this investigation is delivered to him and cannot be published without his permission. If this is not given then the report remains secret.
 - b) Investigations undertaken by the EOC itself. These have to be either published or made available for inspection. This means that you have to contact the EOC and ask them for permission to look at a copy from them. They cannot refuse this.
- However, what actually goes into the report is determined by the Commission. All other evidence is secret. It cannot be revealed by anyone else, on pain of a fine of up to £400. The Commission is able to conceal the practices of any firm or individual, however bad they are, which it has investigated.

- E. The EOC also takes a part in industrial cases—equal pay, opportunity etc, which is dealt with in the section on enforcement. The main thing that it does here, and with some other cases, and some of its own investigations, is to issue non-discrimination-notices; and possibly conduct a follow-up investigation. The EOC had to keep a register of all n-d-n's that become final, and this is available for inspection on the same terms as their reports are.

The limits of the EOC are of the same kind as the limits of the SDA itself. However, it is possible to use the EOC to push for changes in the law generally and the SDA in particular, which will be dealt with in the last section.



With cuts in social spending even the limited nursery facilities are being chopped.

6. Enforcement

The provisions for enforcing the SDA are these:

Civil Cases. Civil action in the County Court is the remedy for infringement of the terms of the SDA, except for employment cases. These cases proceed in the usual way, and would be used for things like the refusal of a mortgage on insufficient grounds. However, it ought to be noticed that legal aid is not free for these cases, and although costs can be claimed, they might not always be given, and they will be re-imbursements, so an initial outlay will be necessary.

Employment Cases. These involve a lot of bureaucratic procedures, take a long time and have no effective sanction at the end. The outline of procedure is as follows

An individual complaint is made to an industrial tribunal. Legal aid is not available and the woman will have to prove her case. The tribunal *can*, but does not have to, either award compensation, *recommend*, but not *compel*, that the firm changes its practice; or both. If many (no definition of how many this is) women take the *same* complaint to the same tribunal, a 'general finding' of discrimination may be issued, though again it has no compulsion power. This is as far as an individual woman can take any complaint.

What do we do with the SDA?

Further action is through the Equal Opportunities Commission. If notified, the EOC can look into the matter and issue a non-discrimination-notice, which can be appealed against. Within a year it *can* investigate to see if the non-discrimination notice has been complied with. If not complied with, the EOC refers the matter back to the original Industrial Tribunal which looks into it again. *If* it agrees that discrimination continues the EOC can then take the case to Court (civil court) and obtain an injunction requiring the firm or individual to comply with the non-discrimination-notice. If this is not complied with, after further investigation, the case is taken back to court. At this point the only sanction the firm faces is contempt of court. This is the end of proceedings which might have taken up to 2 years.

These are the only legal actions open to anyone under the SDA. What do they mean for most women? They make it unlikely that working class women in general would take even the limited action prescribed by the SDA. Employment complaints may well take literally years if there is stiff opposition from the employer, and ordinary civil cases would cost money, even supposing that the mechanics of the legal actions open to them were well known. Only the middle class, educated woman in the main would consider the legal processes both worthwhile and productive.

The main thing the SDA does is put complaints on an *individual* basis. They are only allowed this way. Individually this works for a complaint about the non-provision of a mortgage, in so far as the complainant probably gets what she wants, but the Building Society or whatever might have to be taken to Court on many individual occasions before it ceases its discriminatory practice. This is much more serious for matters relating to the workplace. Individual processes are of little use if an entire factory is not getting equal pay, and all women working there must make *individual* complaints. This has two results. The first is that it makes industrial complaints fragmented. The second is that the complaint must stay *exactly* the same throughout the entire procedure however long it goes on. For example, an initial case of denial of equal pay. After several stages the employer takes the men off the job, regrades it, and does not allow women to transfer to a new branch of work. This constitutes a new complaint (with a new avenue of defence by the employer) and so the whole process has to be restarted.

This is the main danger to working women of these enforcement procedures. Because processes are so lengthy they effectively take the steam out of any dispute. They also try to reduce *collective action* to individual complaints, and in so doing divert women's militancy into legal channels. In practice, probably the best use of the SDA is as an *additional* threat during negotiations, but on its own, without the threat of other sanctions, like striking, it would be of little use.

It seems from what we have written so far that everything concerned with the SDA is complex. Its origins, the situations it covers and those exempted, the mechanisms for obtaining redress, are all difficult topics to untangle. The attitude that we should adopt towards it must reflect this complexity. The SDA is far from being a case of 'take it or leave it'. As we have said, the publicity surrounding it means that many people are expecting it to have a powerful effect on the situation of women. The Government can pose itself as the most ardent supporter of women's rights without actually doing anything to ensure compliance with the Act, and without producing the further legislation which we have shown is necessary. The existence of the SDA is also likely to give large numbers of women the impression that we have won many of our demands, and that it would not be right to start pressing for more immediately. If we ignore the Act, we run the danger of allowing the Labour Government and employers off the hook as far as women's equality is concerned.

Given that we take the SDA seriously, what should our next steps be? Firstly, we must consider what can be achieved within the framework of the Act. Only testing out its provisions in practice will show how far the Government is prepared to take its commitment, and what needs to be done to make it more effective. In the case of employment provisions, for example, we have seen how the SDA makes it complicated for women to take complaints to the relevant bodies. However, we should not be discouraged, but should try to get our trade unions involved. Women's groups and Working Women's Charter groups within trade unions or trades councils should be pressing for the union to provide financial and legal assistance for complaints. They should force the unions to keep a watch on the progress of cases and not allow them to terminate merely in the issue of a non-discrimination notice. The situation imposed by the Act whereby women can only take *individual* action must be challenged by women taking *collective* action to back up their grievances and winning the maximum support from the labour movement for a unified fight against particular employers or groups of employers. In the same way, support from local trades councils, tenants federations and so on can help to end the discriminatory practices of estate agents, building societies and other bodies which refuse goods or services to women.

The terms under which the Equal Opportunities Commission operate also provide for pressure to be put on it by women's and labour movement organisations. The EOC has research facilities, and we should demand that these are used for a *full* investigation into the social situation of all women (not only those who work outside the home), including

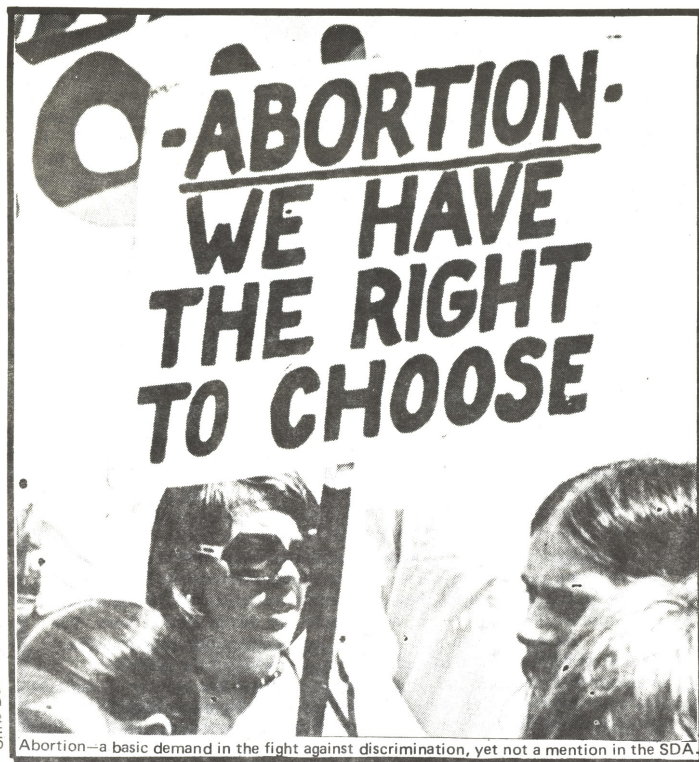
matters such as abortion, unemployment, social service cuts etc. We should also press for an examination of the weaknesses of the SDA to be included in every report of the EOC; and for an examination of the workings of the Equal Pay Act which will expose evasions by employers.

In terms of employment, the EOC is empowered to take up matters not resolved by industrial tribunals. Where these investigations lead to a non-discrimination notice, a register must be kept. This will be useful in providing a guide to those employers and areas of employment which are particularly bad from the point of view of discrimination. But on its own it is not enough. The SDA reflects usual government and industrial practice of keeping secret from people many of the facts and reasons for decisions which directly concern them. There is absolutely no reason why the SDA should cover investigations by the EOC in secrecy. After all, why should employers need protection? Is it because they are engaged in such vile practices that the government is afraid of the anger of millions of women and men if these are brought into the open?

We have a right to know who is guilty of discrimination against us. So we must demand an end to the secrecy provided by the SDA and call for the fullest publicity for the workings of the EOC. This means, for a start, the naming of all firms and individuals found to be discriminating. At the moment, unless the investigation terminates in a non-discrimination notice, it is up to the EOC to decide what goes into its report, and reports for the Secretary of State remain secret unless permission is given for them to be published. In our view, every investigation ought to be reported in full detail, so that we can decide for ourselves how discrimination operates and how it should be fought.

These, then, are the measures which can be taken within the framework of the Act. But we must not forget that the Act is only a part of the general struggle for women's rights. At the moment, the women's movement and the labour movement are involved in two major campaigns based on women's demands: the National Abortion Campaign and the Working Women's Charter Campaign. We ourselves bear the responsibility for ensuring that even the limited gains of the Act are enforced and that we take up the fight in areas not mentioned in the Act. The Working Women's Charter Campaign is now discussing demands for local enquiries—independent of the State—into the workings of this Act. To be successful, these local investigations will have to have the full backing and active participation of the workers' movement.

The NAC is at present planning a tribunal on abortion which will examine the availability of facilities and how the provision or non-provision of abortion affects women's lives. We should demand that the EOC members attend this tribunal and take note and act upon the evidence drawn up by bodies all over the country which are fighting for free abortion on demand and a woman's right to choose. The SDA will never be implemented without the type of action in the localities and massive national demon-



Chris Davies (Report)

strations which the NAC has been able to stimulate. Through these actions, NAC can force those responsible for the SDA to realise that we will never be free of discrimination or win equality while we are forced to bear and rear unwanted children.

The importance of political action, rooted in the community and in local workplaces, becomes even clearer when we consider the Working Women's Charter Campaign. Since the SDA has come into operation, many people have questioned the need for a separate campaign on the Charter. Surely, they ask, it is better to work through the legal channels now provided. This approach neglects the type of criticisms we have already made of the SDA. Whereas the SDA looks mainly at the situation of women working outside the home, the basis of the Charter is that woman's role as domestic labourer cannot be divorced from her role in production. The fact that the Charter relates much more directly and realistically to the

actual situation experienced by women can be seen from the readiness with which many trade unions, women's groups, tenants federations and other organisations have adopted it, and the variety of campaigns which it has stimulated. Charter groups have been active in setting up nursery campaigns, supporting the NAC, helping to unionise women workers and fighting the cuts in social spending—all areas not covered by the SDA. The amendments proposed by various organisations to be debated at the National Charter Conference in April 1976 reflect the valuable experience we have gained in fighting for its demands.



Chris Davies (Report)

Self organisation amongst women workers will be key in fighting for the right of women to work.

Finally, there is one crucial difference between demands of the NAC, the Working Women's Charter, the women's movement as a whole and the provisions of the SDA. The Sex Discrimination Act involves government, employers and other bodies granting certain concessions to women. Although we can put pressure on them which will influence their decisions, in the last analysis in our present society it is the institutions of the capitalist State which will decide what we can or cannot have. Yet these are the very institutions—courts, commissions deciding issues in secrecy, government departments and so on, which have helped to maintain and structure our oppression throughout the history of capitalism. The campaigns we have been discussing and the Women's Liberation Movement, by contrast, are based on the *self-organisation of women* they are independent of the capitalist State. The founding of the WLM showed that women recognised that we cannot rely on any other forms of organisation to conduct our struggle for us. By organising ourselves, and by organising support within the labour movement, we are challenging every traditional notion of women's position in society. And we are preparing for a society where we actually have control over our own fertility, sexuality, and ultimately every aspect of our lives, and the lives of the working class as a whole. The formation of women's groups within the unions and workplaces, the building of mass campaigns for our demands relating to abortion and the Working Women's Charter, are first steps along this road. We have to see the fight for implementation of the SDA in this connection. In the home, in local communities and associations; in our workplaces and our trade union branches we must develop the struggle from anti-discrimination to full equality, which will finally only be possible in a socialist society.

The Working Women's Charter

We pledge ourselves to agitate and organise to achieve the following aims:

1. The rate for the job, regardless of sex, at rates negotiated by the unions, with a national minimum wage below which no wages should fall.
2. Equal opportunity of entry into occupations and in promotion, regardless of sex and marital status.
3. Equal education and training for all occupations and compulsory day-release for all 16-19 year olds in employment.
4. Working conditions to be, without deterioration of previous conditions, the same for women as for men.
5. The removal of all legal and bureaucratic impediments to equality, eg. with regard to tenancies, mortgages, pension schemes, taxation, passports, control over children, social security payments, hire-purchase agreements, etc.
6. Improved provision of local authority day nurseries, free of charge, with extended hours to suit working mothers, Provision of nursery classes in day nurseries. More nursery schools.
7. 18 weeks maternity leave with full nett pay before and after the birth of a live child; 7 weeks after birth if the child is still-born. No dismissal during pregnancy or maternity leave. No loss of security, pension, or promotion prospects.
8. Family Planning clinics supplying free contraception to be extended to cover every locality. Free abortion to be readily available.
9. Family allowances to be increased to £2.50 per child, including the first child.
10. To campaign amongst women to take an active part in the trade unions and in political life so that they may exercise influence commensurate with their numbers and to campaign amongst men trade unionists that they may work to achieve this aim.

SUBSCRIBE TO THE WORKING WOMEN'S CHARTER CAMPAIGN NEWS-LETTER by sending £1.50 to WWCC, 49 Lowther Hill, London SE 23 1PZ

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97 Caledonian Road, London, N.1. (01-)278-9526